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TO:

Name: Mail Stop PETITION
(Art Unit 3772/Examiner Michael A. Brown)

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/047,545

Gary Karlin Michelson

Filed: January 16, 2002

THREADED FRUSTO-CONICAL INTERBODY

SPINAL FUSION IMPLANTS

Attorney Docket No. 101.0053-01000

Customer No. 22882

Confirmation No.: 4993

FROM:

Name: Thomas H. Martin

Phone No.: 330-877-2277

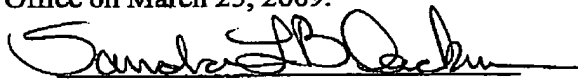
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Message:**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Petition for Deferral of Issuance of Patent (total amount of \$130.00 to cover the Petition fee is to be charged to Deposit Account No. 50-3726) is being facsimile transmitted to the U.S. Patent and Trademark Office on March 25, 2009.


Sandra L. Blackmon

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PATENT
Attorney Docket No. 101.0053-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:)
Gary Karlin Michelson)
Serial No.: 10/047,545)
Filed: January 16, 2002)
For: THREADED FRUSTO-CONICAL)
INTERBODY SPINAL FUSION)
IMPLANTS)

Confirmation No.: 4993
Group Art Unit: 3772
Examiner: Michael A. Brown

MAR 25 2009

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION FOR DEFERRAL OF ISSUANCE OF PATENT

Pursuant to 37 C.F.R. § 1.314, Applicant hereby respectfully petitions the Commissioner to grant a deferral of the issuance of the present application until after issuance of parent application, U.S. Serial No. 08/480,908. According to the fee schedule set forth in 37 C.F.R. § 1.17(h), the required fee of \$130.00 for consideration of this Petition is enclosed herewith.

This request for a deferred issuance of a prospective United States patent is made for the causes set forth below which it is respectfully submitted constitute good and sufficient reasons for the action sought.

The issue fee in the present application was paid on February 26, 2009, approximately a month after the issue fee in the parent application was paid on January 28, 2009. Furthermore, the present application is tied to the parent application by a Terminal Disclaimer (filed November 6, 2008 in the present application), and the parent application is a pre-GATT case with a filing date of June 7, 1995. Hence, the parent application should be entitled to a patent term measured seventeen (17) years from issuance. If the present application issues before the parent application, the parent application will be irreparably harmed: the parent application will not be accorded the appropriate patent term afforded by its filing date.

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In view of the foregoing, Applicant respectfully requests the deferral of the issuance of the present application until after issuance of parent application, U.S. Serial No. 08/480,908.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: March 25, 2009

By: 
Thomas H. Martin
Registration No. 34,383

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